

Appl. No. 10/007,270
Amdt. dated December 22, 2003
Reply to Office Action of October 21, 2003

PATENT

REMARKS/ARGUMENTS

I. Status of the Claims

Claims 1-20 are currently pending but subject to a restriction requirement. Upon entry of this amendment, claims 6-9 and 13-20 are canceled solely because they are non-elected claims. Claims 10-12 are amended to recite to a more general class of vectors. Hence, none of these amendments are made for reasons of patentability and are canceled or amended without prejudice or disclaimer. Applicants reserve the right to reintroduce the unamended or canceled claims in this or another application. The amended claims find support throughout the application, including, for example, at page 32, paragraphs 153-154.

II. Response to Restriction and Species Election Requirement

The claims have been restricted by the Office into 8 different groups. The claims within each group are further restricted to a single sequence. Restriction to a specific sequence is said to be an actual restriction requirement not a species election. In response to the restriction requirement, Applicants elect with traverse to prosecute claims 1-5 and 10-12 in Group I, with respect to SEQ ID NO:1, which encodes the protein having SEQ ID NO:2. All of the pending claims within elected Group I read on this sequence.

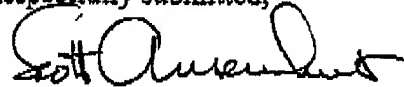
This election is made with traverse for two reasons. First, claims cannot be restricted without a showing by the Office that a search and examination of the claims on the merits would constitute an undue burden on the Office, even when the claims are directed to independent and distinct inventions (MPEP 803.01). SEQ ID NOs:1, 3, 5 and 27 are all various isoforms or variants of the interphotoreceptor matrix (IPM) 150 gene (see, e.g., pages 10 and 11, paragraphs 46-51). Because of the general similarity in sequence, it would not be an undue burden on the Office to consider these sequences together. Second, restriction of the claims to a single sequence is contrary to the provisions of MPEP 803.04, which provides for examination of 10 independent and distinct nucleotide sequences without restriction because this typically does not impose an undue burden on the Office.

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If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,



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